REMARKS

This document relates to issues raised in the examiner's office action mailed 05/01/2008. In that office action, claims 1-44 were rejected by the examiner under 35 U.S.C. § 102 and/or 35 U.S.C. § 103. A primary reference used by the examiner in rejecting the claims is Lin et al. (US 6,405,250).

On page 15 of the office action, the examiner states:

The related art section of the specification is objected to because this section needs to be updated to reflect that application 09/342,742 has become US. Patent No.: 6,973,034 and needs to describe the status of application 09/342,341 now US. Patent No.: 6,765,864.

The related art section of the specification has been amended in accordance with the examiner's request. No new matter has been added.

On page 15 of the office action, the examiner objects to the "configured or designed" language of pending claims 1, 7-9, 11, 13, 14, 15, 16, asserting that the term "designed" can be interpreted as an intended use and is not considered by the examiner to be a positive recitation of a claim limitation. The examiner recommends amending the claim to be a positive recitation of a claim limitation. Accordingly, claims 1, 7-9, 11, 13, 14, 15, 16 have been amended for clarification purposes, as requested by the examiner. It is believed that the amended claim language "operable to" is a positive recitation of a claim limitation. Accordingly, No new matter has been added.

On pages 2-6 of the office action, the examiner states that claims 17-20, 23-25, 27-34, 37-38, & 42-44 are rejected 35 U.S.C. Section 102(e) as being anticipated by Lin (US. Patent No.: 6,405,250). This rejection is respectfully traversed for at least the reasons stated below.

For example, claim 17 is directed to a method for providing dynamic feedback control of network elements in a data network including a plurality of network elements. Each of the network elements has a plurality operating parameters associated therewith. In at least one claimed embodiment, the data network includes a first network portion which is administered by a first network service provider. The first network portion includes a first plurality of network elements. Information related to a first subset of network elements is dynamically received and analyzed based upon selected guidelines to determine whether a performance of at least a portion of the network conforms with a predetermined criteria. When it is determined or detected that the performance of the portion of the network fails to conform with the predetermined criteria, results of the analysis may be automatically and dynamically reported to an administration

system for dynamically responding to the results. In at least one claimed embodiment, a response is selected to dynamically alter a performance policy of the portion of the network to conform with the predetermined criteria. Additionally, in at least one claimed embodiment, the reporting to the administration system is dynamically triggered by the performance of the portion of the network failing to conform with the predetermined criteria.

In at least one claimed embodiment, the reporting mechanism is dynamically triggered by the performance of the portion of the network failing to conform with the predetermined criteria. Also, in at least one claimed embodiment, the response of the administrative system is selected to dynamically alter the policy of the nonconforming network portion so as to then conform. In this way, at least one claimed embodiment allows the administrative system to dynamically correct the performance of non-conforming network elements based on information received from the network elements.

In contrast, as best understood by applicant, the primary reference Lin discloses a system for monitoring various parameters of network elements at a Network Management System (NMS) 120. See Abstract and Figures 1 and 4. Each NE is configured to report its operating states to the NMS. Lin also teaches that the NMS may alter the reporting dynamics of a NE. Column 5, lines 65 through Column 6, line 11: *"each NE follows the policies to decide when and what to report to NMS 120...NMS 120 sets updating policies dynamically for each NE...NMS 120 can dictate what is considered a dramatic change by setting some parameters for the NE's."*

Although the NMS can dictate an alteration to the NE's reporting scheme, Lin does not appear to teach or suggest that such alteration of the NE is dynamically triggered in response to the performance of the network failing to conform with the predetermined criteria, in the manner claimed; nor is such alteration selected to cause the network to meet such predetermined criteria, in the manner claimed. In fact, Lin does not appear to teach or suggest any link between such alteration of the NE and non-conformance to a predetermined criteria, in the manner claimed; nor does Lin appear to teach or suggest when such alteration to an NE's reporting scheme should occur.

Accordingly, for least the reasons stated above, it is believed that claim 17 of the present application is never anticipated by your obvious in view of Lin and/or the other cited prior art of record, and is therefore believe the allowable.

Independent claims 1 and 31 define at least a portion of features similar to those defined in claim 17, and are therefore believed to be allowable for at least those reasons stated above in support of claim 17.

On pages 6-14 of the office action, the examiner rejects numerous claims of the present application 35 U.S.C. 103(a) as being unpatentable over Lin view of other cited art references. Each of these rejections is respectfully traversed for at least the reasons stated herein.

On page 7 of the office action the examiner states:

Lin does not expressly call for: network portion being administered by a first network provider...Subramanian teaches: network portion being administered by a first network provider (Networks can be managed utilizing multiple service providers or supervisor per col. 14 lines 32 to 50). It would have been obvious to add network portion being administered by a first network provider of Subramanian in place of the NMS of Lin order manage a network by having a different supervisor for each service.

Applicant respectfully disagrees.

According to Section III of the <u>Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc.</u> *(as published in Federal Register / Vol. 72, No. 195 / Wednesday, October 10, 2007, herein referenced as the "KSR-Obviousness Examination Guidelines"):*

> *The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made <u>explicit</u>. The Court quoting In re Kahn (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) stated that " '[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.' " (KSR, 550 U.S. at l, 82 USPQ2d at 1396) (emphasis added)*

In the present case, the examiner appears to be merely picking and choosing selected features from the various cited prior art references for combination using hindsight reconstruction, without providing a sufficient reason or explicit analysis of why the disclosures of the references should be combined. For example, a general statement that *"It would have been obvious to add network portion being administered by a first network provider of Subramanian in place of the NMS of Lin order manage a network by having a different supervisor for each service"* as asserted by the examiner, is not a sufficient rationale to support a rejection under 35 U.S.C. 103, as set forth in KSR-Obviousness Examination Guidelines.

Additionally, as noted by the U.S. Supreme Court in KSR: "[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of argument

reliant upon ex post reasoning." (*KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 82 USPQ2d at 1397*).

Moreover, it is noted that recent decisions by the USPTO's Board of Patent Appeals and Interferences (BPAI) have relied upon KSR citations to emphasize the necessity for an examiner to first make a proper prima facie case of obviousness before rejecting a claim. For example, some representative language used by the Board is quoted as follows:

> "*We determine that the Examiner has not provided a sufficient reason or explicit analysis of why the disclosures of the references should be combined.*" (*Ex Parte Erkey et al, BPAI Appeal 20071375, Decided May 11, 2007; "We find no suggestion to combine the teachings and suggestions of [sic] and [sic], as advanced by the Examiner, except from using Appellants' invention as a template through a hindsight reconstruction of Appellants' claims.*" (*Ex Parte Crawford et al, BPAI Appeal 20062429, Decided May 30, 2007) (Emphasis Added)*

In the instant case, for example, the examiner has provided no explicit analysis of why the disclosures of the references should be combined, or provided any analysis or explanation as to the basis or origin of the examiner's asserted rational (i.e., that one of ordinary skill in the art would be motivated to *have a different supervisor for each service)* for justifying why one having ordinary skill in the art would be motivated to combine the references in the manner as suggested by the examiner.

Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of obviousness with respect to the rejection of claim 1.

On page 8 of the office action, the examiner states: *Regarding claim 2, wherein the predetermined criteria relates to specified bandwidth use (Network congestion or bandwidth per col. 9 lines 25 to 35).* Applicant respectfully disagrees.

For reference purposes Lin col. 9 lines 25 to 35 is reproduced below:

A timeout event regarding missing a status update from an NE implies several possibilities: the NE is down, the communication path between the NE and NMS 120 is down, a reporting message is lost, or the network is congested. Trend analyzer 402 determines likely causes based on a Bayesian belief network that accounts for the operating status of other network elements; this is done at step 731. Trend analyzer 402 then forwards the reasoning outcome, also in the form of a set of potential transitions, at step 702 to action chooser 403.

There does not appear to be any teaching or suggestion in Lin (including, for example, Lin col. 9 lines 25 to 35) for dynamically analyzing at least a portion of said received information based upon selected guidelines to determine whether a performance of at least a

portion of said network conforms with predetermined criteria relating to a specified bandwidth use. Nor does there appear to be any teaching or suggestion in Lin (including, for example, Lin col. 9 lines 25 to 35) for automatically and dynamically reporting results of said analysis to the administration system for dynamically responding to said results when the performance of the portion of said network fails to conform with the predetermined criteria relating to a specified bandwidth use. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 2 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 18 and 32).

On page 8 of the office action, the examiner states:

Regarding claim 4, wherein said received information includes operating parameter information related to a subset of network elements (Communicator (404) per Fig 4 receives operating parameters related to NEs per Fig 4) and where said analyzing means (Trend Analyzer per Fig 4) includes means for analyzing at least a portion of said operating parameter information to determine whether a service quality of a portion of said network conform with acceptable service level (Trend Analyzer has means to analyze a parameters which are associated with NEs to determine conformance with service level).

Applicant respectfully disagrees.

For reference purposes Lin 7:27-8:2 (relating to Figure 4 of Lin) is reproduced below:

Turning now to FIG. 4, there is shown in block diagram form, the internal arrangement of a management agent (MA) 450 (associated with a particular NE, not shown) and of NMS 120, both as arranged in accordance with the present invention. FIG. 4 shows in particular how MA 450 communicates just-in-time management information to NMS 120; the communication process is itself controlled, to some degree, by NMS 120, as discussed more fully below. As depicted in FIG. 4, MA 450 includes a communicator 454, which acts as a communications interface to NMS 120. In addition to a database 451 which stores the behavior transition model for the NE associated with MA 450, MA 450 also includes a report filter 452 and an action enforcer 453. Report filter 452 receives raw MIB data, such as counter values and alarms from the associated network element and uses the behavior model in database 451 to filter out unnecessary reporting details. MIB values that are potentially of interest to NMS 120 based on the current status of the NE associated with MA 450 are then aggregated and forwarded to NMS 120 through communicator 454. On the other hand, action enforcer 453 receives action requests from NMS 120 via communicator 454 and processes them. The nature of the requests includes

reconfiguring the network element, acquiring specific MIB values, or updating report filtering policies.

NMS 120, like MA 450, includes a communicator 404 which acts as a communications interface to MA 450. NMS 120 also has a database 401 that holds the derived network-wide model as well as the behavior transition models for all of the NE's in the network. In addition, NMS 120 includes a trend analyzer 402 and an action chooser 403. Upon receiving a status update from communicator 404, trend analyzer 402 extrapolates the movement of NE operating points and consults the network-wide model in database 401 to predict trends in future network transitions. Trend analyzer 402 then forwards trend analysis results to action chooser 403, which in turn consults database 401 to select management actions for relevant NEs based on the options associated with the states of their respective behavior transition models. Action chooser 403 then issues selected commands to external NE's through communicator 404. The communicators 404 and 454 are responsible for sending and receiving messages between NMS 120 and each MA within each NE, typically using SNMP format.

There does not appear to be any teaching or suggestion in Lin (including, for example, Lin Figure 4 and Lin 7:27-8:2) for dynamically analyzing at least a portion of said operating parameter information to determine whether a service quality of a portion of said network conforms with acceptable service level parameters. Nor does there appear to be any teaching or suggestion in Lin (including, for example, Lin Figure 4 and Lin 7:27-8:2) for automatically and dynamically reporting results of said analysis to the administration system for dynamically responding to said results when the performance of the portion of said network fails to conform with the predetermined criteria relating to acceptable service level parameters. Moreover, a text search performed on the disclosure of Lin reveals that the term "service level" does not appear anywhere in the disclosure of Lin. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 4 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 19 and 33).

On page 8 of the office action, the examiner states:

Regarding claim 5 further including modifying a configuration of said at least one network element in response to determination that said service quality of said network portion does not meet a specified service level requirement wherein the modification is selected so that at least one network element is caused to meet the specified service level requirement (Action Enforce modifies a NE upon receipt of message from Action Chooser per Fig 4)

Applicant respectfully disagrees.

There does not appear to be any teaching or suggestion in Lin (including, for example, Lin Figure 4 and Lin 7:27-8:2) for dynamically modifying a configuration of at least one network element in response to a determination that said service quality of said network portion does not meet a specified service level requirement. Nor does there appear to be any teaching or suggestion in Lin (including, for example, Lin Figure 4 and Lin 7:27-8:2) for dynamically modifying a configuration of at least one network element such that the at least one network element is caused to meet the specified service level requirement. Moreover, a text search performed on the disclosure of Lin reveals that the term "service level" does not appear anywhere in the disclosure of Lin. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 5 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 20 and 34).

On page 8 of the office action, the examiner states:

Regarding claim 9 wherein the policy engine system is further configured or designed to analyze said information to evaluate a fault management performance of a portion of said network (Trend analyzer per Fig 4 overload situation or fault per col. 7 line 11).

Applicant respectfully disagrees.

For reference purposes Lin 7:7-26 is reproduced below:

Consider again the simple behavior transition model depicted in FIG. 3 as an example. We can associate with State 301 an option of reporting throughput and blocking rate every 15 minutes. On the other hand, in a slightly overload situation in State 302, we may be interested in the percentage distribution of traffic entering an NE through different interfaces. We may also like to know the blocking rate of at each individual interface to determine if a particular admission policy is working properly. Therefore, we can associate with State 302 an option of reporting throughput and blocking rate respectively on a per interface basis, properly still every 15 minutes. State 303 represents either internal or external network problems. If the problem is within an NE, the NE may want to report its recovery progress. However, if the problem is likely to be outside of the NE, NMS 120 may only need to know from the NE how much traffic it is sending to its neighboring. NE's. Therefore, there could be multiple options associated with State 303. This is where a collaborative decision between NMS and each NE is preferred.

There does not appear to be any teaching or suggestion in Lin (including, for example, Lin 7:7-26) for dynamically analyzing at least a portion of network operating parameter information to evaluate a fault management performance of a portion of said network. Moreover, a text search performed on the disclosure of Lin reveals that the term "fault

18

management" does not appear anywhere in the disclosure of Lin. Although Lin 7:7-26 does appear to teach the ability for an NE to report throughput data and blocking rate data to the NMS, as best understood by Applicant, such data is not representative of information relating to a fault management performance of a portion of the network. Moreover, there does not appear to be any teaching or suggestion in Lin (including, for example, Lin 7:7-26) for dynamically analyzing the reported throughput data and/or blocking rate data to evaluate a fault management performance of a portion of the network of Lin. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 9 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 23 and 37).

On page 8 of the office action, the examiner states:

Regarding claim 10, wherein the policy engine system includes a first event handling component configured or designed to receive an event notification message relating to an error reported by a specific network element (Communicator (404) per Fig 4 or first event handling component receives SNMP message relating to errors associated with 101 to 104 per Fig 1).

Applicant respectfully disagrees.

It is noted that Lin references the term "SNMP" in only two locations of the specification, namely Lin 2:26 and Lin 8:2. The text of Lin 7:27-8:2 has been reproduced above. For reference purposes Lin 2:13-26 is reproduced below:

When the invention is properly implemented, it enables two powerful network management methods, namely passive monitoring and proactive management. Passive monitoring, based on an agent-initiated, situation-dependent updating mechanism, provides just-in-time status updates and minimizes management traffic overhead. On the other hand, proactive management, through a manager-anticipated, trend-driven preventive control, avoids catastrophic network failures and serious quality of service (QoS) degradation. A derived network-wide behavior model facilitates effective fault diagnosis and disaster avoidance. The network management system and method of the present invention can be implemented using various standard management protocols, such as SNMP.

There does not appear to be any teaching or suggestion in Lin (including, for example, Lin Figure 1, Lin 2:13-26 and/or Lin 7:27-8:2) that the SNMP messages disclosed in Lin include notification messages relating to error reported by NEs 101 to 104 of Lin. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 10 of the present application (as well as

19

other dependent claims which include similar additional limitations, such as, for example, claims 24 and 38).

On page 9 of the office action, the examiner states:

Regarding claim 16, wherein the administration system is configured or designed to dynamically modify said policy in response to a determination that said policy is not effective in affecting said aspect of network performance to conform with said predefined performance criteria (Behavior Transition Models of NE's & Network per Fig 4)

Applicant respectfully disagrees.

There does not appear to be any teaching or suggestion in the disclosure of Lin (including, for example, Figure 4, Lin 7:27-8:2) for dynamically modifying the Behavior Transition Models taught by Lin in response to a determination that the Behavior Transition Models are not effective in causing a desired aspect of network performance to conform with predefined performance criteria. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 16 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 28 and 42).

On page 10 of the office action, the examiner states:

Claim 12 is rejected under 35 U.S.C.. 103(a) as being unpatentable over Lin (US. Patent No.: 6,405,250) in view of Subramanian (US. Patent No.: 5,519,707) further in view of Winokur (US. Patent No.: 5,483,637)...Referring to claim 12, the combination of Lin and Subramanin teach: the system of claim 10 and analysis error messages associated with network elements...Lin does not expressly call for: suspending analysis in response to reception of an error notification message...Winokur teaches: suspending analysis in response to reception of an error notification message (col. 6 lines 55 to col. 7 line 5...It would have been obvious to one of ordinary skill in the art at the time of the invention to add suspending analysis in response to reception of an error notification message of Winokur to the system of Lin and Subramanin in order to build a system which revaluates the status of the system based upon error messages in order to improve the system performance.

Applicant respectfully disagrees.

In the present case, the examiner appears to be merely picking and choosing selected features from the various cited prior art references for combination using hindsight reconstruction, without providing a sufficient reason or explicit analysis of why the disclosures of the references should be combined. For example, a general statement that *"It would have been obvious to one of ordinary skill in the art at the time of the invention to add suspending analysis*

in response to reception of an error notification message of Winokur to the system of Lin and Subramanin in order to build a system which revaluates the status of the system based upon error messages in order to improve the system performance." as asserted by the examiner, is not a sufficient rationale to support a rejection under 35 U.S.C. 103, as set forth in KSR-Obviousness Examination Guidelines. For example, the examiner has provided no explicit analysis of why the disclosures of the references should be combined, or provided any analysis or explanation as to the basis or origin of the examiner's asserted rational (i.e., that one of ordinary skill in the art would be motivated to *build a system which revaluates the status of the system based upon error messages in order to improve the system performance)* for justifying why one having ordinary skill in the art would be motivated to combine the references in the manner as suggested by the examiner. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of obviousness with respect to the rejection of claim 12.

Additionally, it is believed that such a modification, as proposed by the examiner, <u>teaches away</u> from the teachings of Lin, and further teaches away from the examiner's asserted rationale for combining the references (e.g., that one of ordinary skill in the art at the time of the invention would be motivated to add suspending analysis in response to reception of an error notification message of Winokur to the system of Lin/Subramanin *in order to build a system which revaluates the status of the system based upon error messages in order to improve the system performance).* For example, the NMS of Lin were modified to suspend analysis of the NEs information in response to reception of an error notification message relating to an error reported by a specific network element, the NMS would be rendered inoperable to improve the system performance by revaluating the status of the system based upon such error messages.

Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 12 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 26 and 40-41).

On page 11 of the office action, the examiner states:

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US. Patent No.: 6,405,250) in view of Subramanian (US. Patent No.: 5,519,707) further in view of Azarmi (US. Patent No.: 5,905,715)...Referring to claim 7, the combination of Lin and Subramanian teach: the system of claim 1 and a portion of said network...The combination of Lin and Subramanian do not expressly call for: configured or designed to analyze said information to determine billing information....Azarmi teaches: configured or designed to analyze said information to determine billing information (billing analysis as well as NMS per col. 1 lines 35

21

to 49 or Fig 20)....It would have been obvious to add configured or designed to analyze said information to determining billing information of Azarmi to the network management of Lin and Suramanin in order to build a system which can provide billing on different services.

Applicant respectfully disagrees.

In the present case, the examiner appears to be merely picking and choosing selected features from the various cited prior art references for combination using hindsight reconstruction, without providing a sufficient reason or explicit analysis of why the disclosures of the references should be combined. For example, a general statement that *"It would have been obvious to add configured or designed to analyze said information to determining billing information of Azarmi to the network management of Lin and Suramanin in order to build a system which can provide billing on different services."* as asserted by the examiner, is not a sufficient rationale to support a rejection under 35 U.S.C. 103, as set forth in KSR-Obviousness Examination Guidelines. For example, the examiner has provided no explicit analysis of why the disclosures of the references should be combined, or provided any analysis or explanation as to the basis or origin of the examiner's asserted rational (i.e., that one of ordinary skill in the art would be motivated to *build a system which can provide billing on different services)* for justifying why one having ordinary skill in the art would be motivated to combine the references in the manner as suggested by the examiner. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of obviousness with respect to the rejection of claim 7.

Additionally, it is believed that such a modification, as proposed by the examiner, would not result in a system having the combination of features as recited, for example in the claimed embodiment of claim 7. For example, Azarmi generally teaches that billing systems for Flexible Bandwidth Service (FBS) may be designed to give complete flexibility to the customer in that bills can be apportioned within the customer's organization on a basis which the customer defines, and sent to selected addresses with a regularity that the customer wishes. (e.g., Azarmi 7:49-54). However, there does not appear to be any teaching or suggestion in the disclosure of Azarmi for analyzing information reported by the network elements of a portion of the network of Azarmi to identify or determine billing information associated with a portion of said network. Thus, even if one having ordinary skill in the art would be motivated to combine the references in the manner as suggested by the examiner, it is believed that the modified system of Lin will not result in a system having the combination of features as recited, for example in the claimed embodiment of claim 7, including, for example, the feature of analyzing information reported by

the network elements of a portion of the network of Lin to identify or determine billing information associated with a portion of said network.

Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of anticipation and/or obviousness with respect to the rejection of claim 7 of the present application (as well as other dependent claims which include similar additional limitations, such as, for example, claims 21 and 35).

On pages 11-12 of the office action, the examiner states:

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US. Patent No.: 6,405,250) in view of Subramanian (U.S. Patent No.: 5,519,707) further in view of Ross (GB2318479)...Referring to claim 8, the combination of Lin and Subramanian teach: the system of claim 1 and policy engine...The combination of Lin and Subramanian do not expressly call for: configured or designed to analyze and detect security violations...Ross teaches: configured or designed to analyze and detect security violations (Mgt units or management agents can be utilized to control network security per Pgs 59 to 60 Para 5.2)...It would have been obvious to add configured or designed to analyze and detect security violations of Ross to the network agents of Lin and Subramanian in order to build a system which provide network security.

Applicant respectfully disagrees.

In the present case, the examiner appears to be merely picking and choosing selected features from the various cited prior art references for combination using hindsight reconstruction, without providing a sufficient reason or explicit analysis of why the disclosures of the references should be combined. For example, a general statement that "*It would have been obvious to add configured or designed to analyze and detect security violations of Ross to the network agents of Lin and Subramanian in order to build a system which provide network security.*" as asserted by the examiner, is not a sufficient rationale to support a rejection under 35 U.S.C. 103, as set forth in KSR-Obviousness Examination Guidelines. For example, the examiner has provided no explicit analysis of why the disclosures of the references should be combined, or provided any analysis or explanation as to the basis or origin of the examiner's asserted rational (i.e., that one of ordinary skill in the art would be motivated to *build a system which provide network security)* for justifying why one having ordinary skill in the art would be motivated to combine the references in the manner as suggested by the examiner. Accordingly, it is respectfully submitted that the examiner has failed to establish a prima facie case of obviousness with respect to the rejection of claim 8 (as well as other dependent claims which include similar additional limitations, such as, for example, claims 22 and 36).

The additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from the prior art of record.

Double Patenting Rejection

Regarding the obviousness-type double patenting rejection of claims 17-44 on page 14 of the office action, it is noted that, while the present application and U.S. Patent No. 6,765,864 are commonly owned, it is noted that, at present, none of the presently pending claims of the present application have been indicated by the examiner to be allowable or even objected to (but allowable if amended to overcome the objection). For the purpose of expediting prosecution in the present case, applicant represents that a terminal disclaimer will be filed, if required, upon the occurrence of at least some of the pending claims 17-44 of the present application being indicated to be allowable and/or objected to (but allowable if amended to overcome the objection). This offer is made to expedite prosecution and in no way constitutes a concession that some pending claims are not patentably distinct from some claims of U.S. Patent No. 6,765,864.

Because claims 1-44 are believed to be allowable in their present form, many of the examiner's rejections in the Office Action have not been addressed in this response. However, applicant respectfully reserves the right to respond to one or more of the examiner's rejections in subsequent amendments should conditions arise warranting such responses.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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